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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/240,563	01/29/1999	DAVID J. BOOTHBY	05110/003004	7489
26161	7590	02/02/2006	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ABEL JALIL, NEVEEN	
			ART UNIT	PAPER NUMBER
			2165	
DATE MAILED: 02/02/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/240,563	Applicant(s) BOOTHBY, DAVID J.	
	Examiner Neveen Abel-Jalil	Art Unit 2165	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/27/04, 8/12/04, 1/4/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12-December-2004 has been entered.
2. The amendment filed on 12-December-2004 has been received and entered. Claims 22-27 are now pending.

Information Disclosure Statement

3. The information disclosure statements filed on August 12, 2004, August 27, 2004 and January 1, 2005 fails to comply with 37 CFR 1.98(a)(3) because it does not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 CFR 1.56(c) most knowledgeable about the content of the information. It has been placed in the application file, but the information referred to therein has not been considered.
4. With respect to number of references cited in this case, the Examiner refers the applicant to MPEP 2004, item 13-as follows:

Cited from MPEP 2004:

13. It is desirable to avoid the submission of long list of documents if it can be avoided. Eliminate clearly irrelevant and marginally pertinent cumulative information. If a long list is submitted, highlight those documents which have been specifically brought to applicant's attention and/or are known to be of most significance. See *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, 175 USPQ 260 (S.D. Fla. 1972), *aff'd*, 479 F.2d 1338, 178 USPQ 577 (5th Cir. 1973), *cert. denied*, 414 U.S. 874 (1974). But cf. *Molins PLC v. Textron Inc.*, 48 F.3d 1172, 33 USPQ2d 1823 (Fed. Cir. 1995).

An applicant's duty of disclosure of material and information is not satisfied by presenting a patent examiner with "a mountain of largely irrelevant [material] from which he is presumed to have been able, with his expertise and with adequate time, to have found the critical [material]. It ignores the real world conditions under which examiners work." *Rohm & Haas Co. v. Crystal Chemical Co.*, 722 F.2d 1556, 1573 [220 USPQ 289] (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984). (Emphasis in original). Patent applicant has a duty not just to disclose pertinent prior art references but to make a disclosure in such way as not to "bury" it within other disclosures of less relevant prior art; See *Golden Valley Microwave Food Inc. v. Weaver Popcorn Co. Inc.*, 24 USPQ2d 1801 (N.D. Ind. 1992); *Molins PLC v. Textron Inc.*, 26 USPQ2d 1889, at 1899 (D. Del. 1992); *Penn Yan Boats, Inc. et al.*, 175 USPQ 260, at 272 (S.D. Fl. 1972).

5. It is impractical for the Examiner to review the references thoroughly with the number of references cited in this case. By initialing the 1449 the Examiner has not considered the IDS's but has merely conducted a cursory review to acknowledges the receipt of IDS's filed on:

August 12, 2004,
August 27, 2004, and
January 1, 2005.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

7. Claims 22-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Woodhill et al. (U.S. Patent No. 5,649,196).

As to claim 22, Woodhill et al. discloses a data processing method for synchronizing the data records of a plurality of disparate databases, the method comprising the steps of:

providing a status file containing data records reflecting the contents of data records existing in at least one of the disparate databases at the time of a prior synchronization (See column 4, lines 1-11, also see column 4, lines 48-61);

comparing data records from at least one of a first and a second of the plurality of databases to corresponding data records of the status file to determine whether data records of the database have changed or been deleted since the prior synchronization or whether there are new data records since the earlier synchronization (See abstract, also see column 7, lines 9-28);

updating the first and second databases based on the outcome of the comparing step; and updating the status file so that its data records reflect the contents of the data records after they have been updated (See column 6, lines 21-39),

wherein the data records of the first and the second databases are without unique identification codes (See flow chart in Figure 5A, shows a back-up queue record if found doesn't need to have unique identification codes in the right side of the chart).

As to claim 23, Woodhill et al. discloses a data processing method for synchronizing the data records of a plurality of disparate databases, the method comprising the steps of:

providing a status file containing data records reflecting the contents of data records existing in at least one of the disparate databases at the time of a prior synchronization (See column 4, lines 1-11, also see column 4, lines 48-61);

comparing data records from at least one of a first and a second of the plurality of databases to corresponding data records of the status file to determine whether data records of

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the database have changed or been deleted since the prior synchronization or whether there are new data records since the earlier synchronization (See abstract, also see column 7, lines 9-28);

updating the first and second databases based on the outcome of the comparing step; and updating the status file so that its data records reflect the contents of the data records after they have been updated (See column 6, lines 21-39),

wherein at least the data records of the first database are identified by unique identification codes (See column 17, lines 18-40, wherein “unique identification code” reads on “version”, also see column 18, lines 28-38).

As to claim 24, Woodhill et al. discloses the method of claim 22 or 23 wherein the correspondence between data records of the first and second databases is achieved by comparing key fields of the databases (See column 15, lines 56-65).

As to claim 25, Woodhill et al. discloses the method of claim 23 wherein data records of the status file are identified by the unique identification code of the first database (See column 17, lines 18-40, wherein “the unique identification code” reads on “version”).

As to claim 26, Woodhill et al. discloses the method of claim 22, 23, or 25 wherein the comparing step further comprises deciding whether to delete a data record from the first database based on the comparing step having determined that the corresponding record of the second database has been deleted since the earlier synchronization (See abstract, also see column 7, lines 9-28).

As to claim 27, Woodhill et al. discloses the method of claim 24 wherein the comparing step further comprises deciding whether to delete a data record from the first database based on the comparing step having determined that the corresponding record of the second database has been deleted since the earlier synchronization (See abstract, also see column 7, lines 9-28).

Response to Arguments

8. Applicant's arguments with respect to claims 22-27 have been considered but are moot in view of the new ground(s) of rejection.

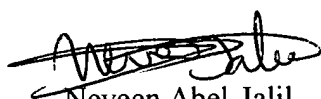
Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Neveen Abel-Jalil
January 30, 2006